

Executive Summary – Enforcement Matter – Case No. 51180
Craig's Dirt Service, L.L.C.
RN105917041
Docket No. 2015-1342-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Craigs Dirt Service Pit, located on the south side of County Road 431; 0.4 mile northwest of the intersection of County Road 431 and West Margaret Street, Smith County

Type of Operation:

Aggregate production operation ("APO")

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: February 12, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$26,517

Amount Deferred for Expedited Settlement: \$5,303

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$599

Total Due to General Revenue: \$20,615

Payment Plan: 35 payments of \$589 each

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Unclassified

Major or Minor Source: Minor

Statutory Limit Adjustment: \$4,525

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 51180
Craig's Dirt Service, L.L.C.
RN105917041
Docket No. 2015-1342-WQ-E

Investigation Information

Complaint Date(s): April 29, 2015

Complaint Information: Alleged a facility was discharging sediment that subsequently collected in a private lake causing a color change and a decrease in water depth.

Date(s) of Investigation: May 27, 2015 through June 1, 2015

Date(s) of NOE(s): August 5, 2015

Violation Information

1. Failed to prevent the discharge of sediment into or adjacent to any water in the state. Specifically, the sedimentation basin breached and was discharging water heavily laden with sediment directly into an adjoining creek [TEX. WATER CODE § 26.121(a)(1)].

2. Failed to conduct quarterly visual monitoring and quarterly routine facility inspections. Specifically, quarterly visual monitoring of stormwater discharges from each outfall and routine facility inspections to determine the effectiveness of the pollution prevention measures and controls were not conducted for the quarters ending June 30, 2014; September 30, 2014; December 31, 2014; and March 31, 2015 [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05BI78, Part III, Section B.3 and B.2].

3. Failed to conduct semiannual benchmark monitoring on discharges of stormwater associated with industrial activities. Specifically, semiannual monitoring for nitrate-nitrite, nitrogen and total suspended solids for the monitoring periods of January 1, 2014 through June 30, 2014 and July 1, 2014 through December 31, 2014 were not conducted [30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR05BI78, Part IV, Section A.1 and B.1(a), and Part V, Section J.7].

4. Failed to renew the APO registration annually as regulated activities continued. Specifically, APO Registration No. AP0000528 expired on March 18, 2015 and the Respondent continued to operate [30 TEX. ADMIN. CODE § 342.25(d)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

a. On May 27, 2015, registered the Site under APO Registration No. AP0001299.

b. By July 28, 2015, repaired the sedimentation basin and removed the accumulated build-up of sediment.

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RN105917041
Docket No. 2015-1342-WQ-E

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Update operational procedures and conduct employee training to ensure that requirements of the stormwater pollution prevention plan are fulfilled, including quarterly visual monitoring of stormwater discharges, quarterly routine inspections to determine the effectiveness of the pollution prevention measures and controls, and semiannual benchmark monitoring;

ii. Begin conducting quarterly visual monitoring of stormwater discharges from each outfall and quarterly routine facility inspections; and

iii. Begin conducting semiannual benchmark monitoring for nitrate-nitrite, nitrogen and total suspended solids.

b. Within 45 days, submit written certification to demonstrate compliance with a.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Alejandro Laje, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2547; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483

TCEQ SEP Coordinator: N/A

Respondent: Craig Crowell, Owner, Craig's Dirt Service, L.L.C., P.O. Box 2627, Lindale, Texas 75771

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	10-Aug-2015	Screening	13-Aug-2015	EPA Due	
	PCW	14-Oct-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	Craig's Dirt Service, L.L.C.		
Reg. Ent. Ref. No.	RN105917041		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	51180	No. of Violations	1
Docket No.	2015-1342-WQ-E	Order Type	1660
Media Program(s)	Aggregate Production Operation	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Alejandro Laje
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$5,000	Maximum	\$10,000
		Violation Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **20.0%** Enhancement **Subtotals 2, 3, & 7** **\$100**

Notes Enhancement for one order with denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **-\$125**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$4
Estimated Cost of Compliance \$375
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$475**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$475**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,000**

Notes

The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,000**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$4,000**

Screening Date 13-Aug-2015

Docket No. 2015-1342-WQ-E

PCW

Respondent Craig's Dirt Service, L.L.C.

Policy Revision 4 (April 2014)

Case ID No. 51180

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105917041

Media [Statute] Aggregate Production Operation

Enf. Coordinator Alejandro Laje

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 13-Aug-2015

Docket No. 2015-1342-WQ-E

PCW

Respondent Craig's Dirt Service, L.L.C.

Policy Revision 4 (April 2014)

Case ID No. 51180

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105917041

Media [Statute] Aggregate Production Operation

Enf. Coordinator Alejandro Laje

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 342.25(d)

Violation Description

Failed to renew the aggregate production operation ("APO") registration annually as regulated activities continued, as documented during an investigation conducted from May 27 through June 1, 2015. Specifically, APO Registration No. AP0000528 expired on March 18, 2015 and the Respondent continued to operate.

Base Penalty

\$10,000

>> Environmental, Property and Human Health Matrix

OR

Release

Major

Harm

Moderate

Minor

Actual

Potential

Percent

0.0%

>> Programmatic Matrix

Falsification

Major

Moderate

Minor

Percent

5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment

\$9,500

\$500

Violation Events

Number of Violation Events

1

70

Number of violation days

mark only one
with an x

daily
weekly
monthly
quarterly
semiannual
annual
single event

Violation Base Penalty

\$500

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction

\$125

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

(mark with x)

Notes

The Respondent achieved compliance on May 27, 2015.

Violation Subtotal

\$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

\$4

Violation Final Penalty Total

\$475

This violation Final Assessed Penalty (adjusted for limits)

\$5,000

Economic Benefit Worksheet

Respondent Craig's Dirt Service, L.L.C.

Case ID No. 51180

Reg. Ent. Reference No. RN105917041

Media Aggregate Production Operation

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$375	18-Mar-2015	27-May-2015	0.19	\$4	n/a	\$4
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to renew the APO registration electronically. Date required is the expiration date of the registration. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$375

TOTAL

\$4

DATES	Assigned	10-Aug-2015	Screening	13-Aug-2015	EPA Due	
	PCW	14-Oct-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	Craig's Dirt Service, L.L.C.
Reg. Ent. Ref. No.	RN105917041
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION	
Enf./Case ID No.	51180
Docket No.	2015-1342-WQ-E
Media Program(s)	Water Quality
Multi-Media	
No. of Violations	3
Order Type	1660
Government/Non-Profit	No
Enf. Coordinator	Alejandro Laje
EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0
Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1 \$18,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.

Compliance History	20.0% Enhancement	Subtotals 2, 3, & 7 \$3,750
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Notes: Enhancement for one order with denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4 \$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5 -\$2,812
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Economic Benefit	0.0% Enhancement*	Subtotal 6 \$0
<small>Total EB Amounts</small> \$1,968 <small>Estimated Cost of Compliance</small> \$12,700		<small>*Capped at the Total EB \$ Amount</small>

SUM OF SUBTOTALS 1-7	Final Subtotal \$19,688
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OTHER FACTORS AS JUSTICE MAY REQUIRE	9.3%	Adjustment \$1,829
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided costs of compliance associated with Violation Nos. 2 and 3.

Final Penalty Amount	\$21,517
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty \$21,517
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DEFERRAL	20.0% Reduction	Adjustment -\$4,303
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$17,214
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Screening Date 13-Aug-2015

Docket No. 2015-1342-WQ-E

PCW

Respondent Craig's Dirt Service, L.L.C.

Policy Revision 4 (April 2014)

Case ID No. 51180

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105917041

Media [Statute] Water Quality

Enf. Coordinator Alejandro Laje

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 13-Aug-2015

Docket No. 2015-1342-WQ-E

PCW

Respondent Craig's Dirt Service, L.L.C.

Policy Revision 4 (April 2014)

Case ID No. 51180

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105917041

Media [Statute] Water Quality

Enf. Coordinator Alejandro Laje

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to prevent the discharge of sediment into or adjacent to any water in the state, as documented during an investigation conducted from May 27 through June 1, 2015. Specifically, the sedimentation basin breached and was discharging water heavily laden with sediment directly into an adjoining creek.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3

62 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three monthly events are recommended, from the initial date of the investigation (May 27, 2015) to the date of compliance (July 28, 2015).

Good Faith Efforts to Comply

25.0%

Reduction \$2,812

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent returned to compliance by July 28, 2015.

Violation Subtotal \$8,438

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$115

Violation Final Penalty Total \$11,681

This violation Final Assessed Penalty (adjusted for limits) \$11,681

Economic Benefit Worksheet

Respondent Craig's Dirt Service, L.L.C.
Case ID No. 51180
Reg. Ent. Reference No. RN105917041
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$7,500	27-May-2015	28-Jul-2015	0.17	\$4	\$85	\$89
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$3,000	27-May-2015	28-Jul-2015	0.17	\$25	n/a	\$25
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to repair the sedimentation basin. Remediation/disposal costs include the actual cost to remove and dispose of the accumulated build-up of sediment from the sedimentation basin. Date required is the date of the Initial Investigation and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,500

TOTAL

\$115

Screening Date 13-Aug-2015

Docket No. 2015-1342-WQ-E

PCW

Respondent Craig's Dirt Service, L.L.C.

Policy Revision 4 (April 2014)

Case ID No. 51180

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105917041

Media [Statute] Water Quality

Enf. Coordinator Alejandro Laje

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05B178, Part III, Section B.3 and B.2

Violation Description

Failed to conduct quarterly visual monitoring and quarterly routine facility inspections, as documented during an investigation conducted from May 27 through June 1, 2015. Specifically, quarterly visual monitoring of stormwater discharges from each outfall and routine facility inspections to determine the effectiveness of the pollution prevention measures and controls were not conducted for the quarters ending June 30, 2014; September 30, 2014; December 31, 2014; and March 31, 2015.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 4

365 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$5,000

Four single events are recommended, one for each quarter in which quarterly visual monitoring and routine facility inspections were not conducted.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$782

Violation Final Penalty Total \$6,557

This violation Final Assessed Penalty (adjusted for limits) \$6,557

Economic Benefit Worksheet

Respondent Craig's Dirt Service, L.L.C.

Case ID No. 51180

Reg. Ent. Reference No. RN105917041

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	27-May-2015	6-May-2016	0.95	\$24	n/a	\$24
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update operational procedures and conduct employee training to ensure that the requirements of the Stormwater Pollution Prevention Plan are fulfilled, including quarterly visual monitoring of stormwater discharges, quarterly routine inspections to determine the effectiveness of the pollution prevention measures and controls, and semiannual benchmark monitoring. Date required is the initial investigation date and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$700	30-Jun-2014	31-Mar-2015	1.67	\$58	\$700	\$758
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct quarterly visual monitoring and routine facility inspections (\$175 per quarter x 4). Date required is the date the first quarterly visual monitoring and routine facility inspection were due and the final date is the date the last visual monitoring and routine facility inspection were due.

Approx. Cost of Compliance

\$1,200

TOTAL

\$782

Screening Date 13-Aug-2015

Docket No. 2015-1342-WQ-E

PCW

Respondent Craig's Dirt Service, L.L.C.

Policy Revision 4 (April 2014)

Case ID No. 51180

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105917041

Media [Statute] Water Quality

Enf. Coordinator Alejandro Laje

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and TPDES General Permit No. TXR05BI78, Part IV, Section A.1 and B.1(a) and Part V, Section J.7

Violation Description

Failed to conduct benchmark monitoring on discharges of stormwater associated with industrial activities, as documented during an investigation conducted from May 27 through June 1, 2015. Specifically, semiannual monitoring for nitrate-nitrite, nitrogen and total suspended solids for the monitoring periods of January 1, 2014 through June 30, 2014 and July 1, 2014 through December 31, 2014 were not conducted.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Harm Moderate	Minor
Release Actual			
Potential		X	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

365 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$2,500

Two single events are recommended, one for each period semiannual monitoring was not conducted.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,071

Violation Final Penalty Total \$3,279

This violation Final Assessed Penalty (adjusted for limits) \$3,279

Economic Benefit Worksheet

Respondent Craig's Dirt Service, L.L.C.

Case ID No. 51180

Reg. Ent. Reference No. RN105917041

Media Water Quality

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**

Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for Violation No 2.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	30-Jun-2014	31-Dec-2014	1.42	\$71	\$1,000	\$1,071
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct semiannual benchmark monitoring (\$500 per missed monitoring period X 2). Date required is the last day of the January 2014 through June 2014 semiannual monitoring period and the final date is the last day of the July 2014 through December 2014 semiannual monitoring period.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,071



Compliance History Report

PUBLISHED Compliance History Report for CN603663055, RN105917041, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN603663055, Craig's Dirt Service, L.L.C. **Classification:** SATISFACTORY **Rating:** 26.67

Regulated Entity: RN105917041, CRAIGS DIRT SERVICE **Classification:** UNCLASSIFIED **Rating:** -----
PIT

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 04 - Mining

Location: ON THE SOUTH SIDE OF COUNTY ROAD 431; 0.4 MILE NORTHWEST OF THE INTERSECTION OF COUNTY ROAD 431 AND WEST MARGARET STREET, LINDALE, SMITH COUNTY, TEXAS

TCEQ Region: REGION 05 - TYLER

ID Number(s):
STORMWATER PERMIT TXR05BI78 **AGGREGATES REGISTRATION** AP0001299

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: August 13, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 13, 2010 to August 13, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Alejandro Laje **Phone:** (512) 239-2547

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES, when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- | | | |
|---|--|---|
| 1 | Effective Date: 10/26/2012 | ADMINORDER 2012-1350-WQ-E (1660 Order-Agreed Order With Denial) |
| | Classification: Major | |
| | Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4) | |
| | Description: Field Citation - Failure to obtain a Multi-Sector Storm Water Permit. | |

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CRAIG'S DIRT SERVICE, L.L.C.
RN105917041

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2015-1342-WQ-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Craig's Dirt Service, L.L.C. ("Respondent") under the authority of TEX. WATER CODE chs. 7, 26 and 28A. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent is a responsible party as defined in TEX. WATER CODE § 28A.001(6), because it is an owner and operator as defined in TEX. WATER CODE § 28A.001(4) and (5), of an aggregate production operation ("APO") located on the south side of County Road 431; 0.4 mile northwest of the intersection County Road 431 and West Margaret Street in Smith County, Texas (the "Site"). Aggregates are being or have been removed or extracted from the Site's earth. Therefore, the Site is an APO as defined in TEX. WATER CODE § 28A.001(1).
2. The Respondent has discharged industrial waste adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 10, 2015.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Six Thousand Five Hundred Seventeen Dollars (\$26,517) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Ninety-Nine Dollars (\$599) of the administrative penalty and Five Thousand Three Hundred Three Dollars (\$5,303) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Twenty Thousand Six Hundred Fifteen Dollars (\$20,615) of the administrative penalty shall be payable in 35 monthly payments of Five Hundred Eighty-Nine Dollars (\$589) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. On May 27, 2015, the Respondent registered the Site under APO Registration No. AP0001299.
 - b. By July 28, 2015, the Respondent repaired the sedimentation basin and removed the accumulated build-up of sediment.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to prevent the discharge of sediment into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted from May 27 through June 1, 2015. Specifically, the sedimentation basin breached and was discharging water heavily laden with sediment directly into an adjoining creek.
2. Failed to conduct quarterly visual monitoring and quarterly routine facility inspections, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05BI78, Part III, Section B.3 and B.2, as documented during an investigation conducted from May 27 through June 1, 2015. Specifically, quarterly visual monitoring of stormwater discharges from each outfall and routine facility inspections to determine the effectiveness of the pollution prevention measures and controls were not conducted for the quarters ending June 30, 2014; September 30, 2014; December 31, 2014; and March 31, 2015.
3. Failed to conduct semiannual benchmark monitoring on discharges of stormwater associated with industrial activities, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR05BI78, Part IV, Section A.1 and B.1(a), and Part V, Section J.7, as documented during an investigation conducted from May 27 through June 1, 2015. Specifically, semiannual monitoring for nitrate-nitrite, nitrogen and total suspended solids for the monitoring periods of January 1, 2014 through June 30, 2014 and July 1, 2014 through December 31, 2014 were not conducted.
4. Failed to renew the APO registration annually as regulated activities continued, in violation of 30 TEX. ADMIN. CODE § 342.25(d), as documented during an investigation conducted from May 27 through June 1, 2015. Specifically, APO Registration No. AP0000528 expired on March 18, 2015 and the Respondent continued to operate.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Craig's Dirt Service, L.L.C., Docket No. 2015-1342-WQ-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Update operational procedures and conduct employee training to ensure that requirements of the stormwater pollution prevention plan are fulfilled, including quarterly visual monitoring of stormwater discharges, quarterly routine inspections to determine the effectiveness of the pollution prevention measures and controls, and semiannual benchmark monitoring, in accordance with 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR05BI78;
 - ii. Begin conducting quarterly visual monitoring of stormwater discharges from each outfall and quarterly routine facility inspections, in accordance with 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR05BI78, Part III, Section B.3 and B.2; and
 - iii. Begin conducting semiannual benchmark monitoring for nitrate-nitrite, nitrogen and total suspended solids, in accordance with 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR05BI78, Part IV, Section A.1 and B.1(a), and Part V, Section J.7.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.iii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe

that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

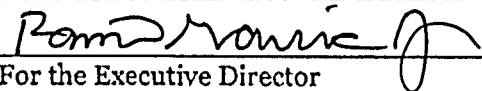
Craig's Dirt Service, L.L.C.
DOCKET NO. 2015-1342-WQ-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date


For the Executive Director

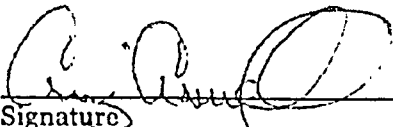
4/29/16
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.


I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

4-6-2016
Date


Name (Printed or typed)
Authorized Representative of
Craig's Dirt Service, L.L.C.

Owner
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.